

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN W. KAMMIN, individually,

Plaintiff,

v.

SMARTPROS, LTD., a Delaware corporation,

Defendant.
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Case No.: 07 CV 09678 (RWS)

Judge Robert W. Sweet

Magistrate Judge Debra C. Freeman

REVISED DISCOVERY PLAN AND SCHEDULING ORDER

This action originated in the Northern District of Illinois, and was transferred to the Southern District of New York pursuant to Defendant's motion on October 9, 2007. As a result, the parties jointly stipulate to the following discovery plan and schedule (with each party reserving its right to challenge any specific discovery request), revised from a schedule previously entered in the Northern District of Illinois. **IT IS HEREBY ORDERED** that:

1. All motions are to be made returnable at 12:00 noon on Wednesday and in compliance with the rules of this Court.
2. The parties shall complete all discovery and inspection by December 2, 2008, after which no discovery will be conducted without a showing of special circumstances. Fact discovery is anticipated to close on July 30, 2008.
3. Maximum of interrogatories by each party to any other party is 30, with responses due 30 days after service.
4. Maximum of requests for admission by each party to any other party is 60, with responses due 30 days after service.
5. Maximum number of depositions by plaintiff is 10 and by defendant is 10 (without leave of Court).
6. Each deposition is limited to eight hours unless extended by the parties' agreement.
7. Reports from retained experts under Rule 26(a)(2) due from plaintiff by September 3, 2008, and from defendant by October 17, 2008, with supplementation by plaintiff under Rule 26(e) due by December 2, 2008. Defendant shall take the depositions of Plaintiff's experts by October 17, 2008, and Plaintiff shall take the depositions of Defendant's experts by December 2, 2008.

8. All potentially dispositive motions should be filed by February 1, 2009, after which no motion will be entertained without a showing of special circumstances.

9. Plaintiff shall submit to the defendant a draft of the pretrial order, and a final list of witnesses and exhibits under Rule 26(a)(3) by the latter of March 1, 2009 or 30 days after the Court's ruling on any dispositive motion. Defendant shall submit to the plaintiff a responsive draft of the pretrial order, and a final list of witnesses and exhibits under Rule 26(a)(3) by the latter of April 1, 2009 or 60 days after the Court's ruling on any dispositive motion. Each party shall have 14 days after receipt of the other party's witness and exhibit lists to lodge objections under Rule 26(a)(3).

10. The parties shall submit to the court trial briefs, a joint proposed pretrial order, and, if applicable, motions *in limine* and proposed jury charges and voir dire requests in accordance with the annexed form and instructions by April 30, 2009. A final pretrial conference will be held at 4:30 p.m. on that date and the action shall be added to the trial calendar published in the New York Law Journal. Prior to submission of the final pretrial order, the parties are directed to exchange offers of settlement. The parties are directed to be ready for trial the day after the pretrial order is due and, upon receipt of twenty-four hour telephone notice, on any day thereafter.


11. The parties shall, in order to prevent delay or interruption of the trial, have sufficient witnesses at all times during the trial and shall perpetuate before trial the direct and cross-examination testimony of any essential witness.

12. Adjournments of the dates set forth above will not be granted except for good cause and upon written application made as soon as the grounds for such application are known.

13. Failure to comply with any of the provisions of this order will result in dismissal of the action, entry of default judgment, or other appropriate sanction.

IT IS SO ORDERED.

New York, NY
February 6, 2008


Robert W. Sweet
U.S.D.J.

Order prepared and agreed to by:

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